

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF GUAM

MAR 24 2008

Francisco S.A. Ignacio
Petitioner

JEANNE G. QUINATA
Clerk of Court

~~08-00003~~

v.

Criminal Case No. 79-00036A

People of Guam
Respondent

Civil Case No. **08-00003**

MOTION FOR CERTIFICATE OF APPEALABILITY

Comes now the Petitioner, Francisco San Agustin Ignacio, proceeding as a pro se petitioner respectfully requesting this court to grant a motion for Certificate of Appealability pursuant to title 28 United States Code 2253(c), to proceed in 28 U.S.C. 2241 for denial of Constitutional issue, whereas the trial court gave non-statutory beyond reasonable doubt jury instructions.

A limited exception applies where petitioner presented only one issue to the district court. In such a case, we do not require the technicality of specifying that lone issue. See *Else v. Johnson*, 104 F.3d 82, 83 (5th Cir. 1997) (per curiam) (on reconsideration) (footnote in original). *Orozco* was decided before *Else*, in which the court held "that district courts retain the authority to issue certificate of appealability for Section 2254 petitions under AEDPA." *Else*, 104 F.3d at 83 (footnote citation omitted). See *United States of America v. Youngblood*, 116 F.3d 1113 (5th Cir. 1997).

Petitioner hopes this request will not be considered frivolous. Wherefore, petitioner prays as follows:

- (a) That the court grant this motion;
- (b) That a hearing be held on this matter;
- (c) That petitioner be allowed to amend and supplement his motion;
- (d) For such other and further relief as the Court deems just and proper.

Petitioner lacks communication with attorney on record, which petitioner has no money to hire an attorney.

Respectfully requested,

Francisco S.A. Ignacio

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